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**From:** Calli, Rosemary [Calli.Rosemary@epa.gov]  
**Sent:** 12/15/2020 8:41:42 PM  
**To:** Wade, Alexis [Wade.Alexis@epa.gov]; Nagrani, Kavita [Nagrani.Kavita@epa.gov]  
**Subject:** ESA Response in RtC

Alexis, Kavita – On page 98 of the RtC, Jess includes the comment below. This language sounds like material we've generally covered, but perhaps specific elements of it can be woven in. Do either of you have bandwidth to address? (...and if this is an "asked an answered" situation, please just let me know. I feel like I already passed this along, but these are starting to run together, and I can't find evidence in my out box of having asked before.)

JKramer:

The following are comments that I'm not sure we fully addressed but I also wasn't sure exactly where to insert responses here:

1. Page 2: "Two commenters declared that "If the FDEP takes over this process, it would eliminate additional scrutiny of federal laws that apply to federal permits actions," including compliance with Section 7 of the ESA. Some commenters stated that the one-time programmatic opinion is not an adequate way to meet the requirements of the ESA due to the amount of listed species in Florida."
2. This same commenter noted several legal and technical deficiencies with the proposal, including a lack of consultation with NMFS as part of the process, and failure of EPA's Technical Assistance memorandum to outline the actual substance of the assistance process. The commenter stated that it would be impossible for any evaluation of future take resulting from Florida's assumption of Section 404 permitting to sufficiently establish procedural requirements and permitting conditions or measures that would address all possible statewide permitting scenarios. The commenter stressed that the number of habitats and possible acres that would be affected by state assumption is far too vast to be adequately addressed in a one-size-fits-all statewide ITP, and the categories of potential projects and the potential sizes of projects are similarly too numerous to anticipate.

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